Philosophical Basis of Social Responsibility Regulation of Limited Companies in Indonesia

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Abstract
The problem of the philosophical basis of the regulation of limited liability company social responsibility in Indonesia. The occurrence of this shift raises a number of issues that are worthy and important to be studied related to the philosophical foundation of corporate social responsibility. This is important to explore because social responsibility has a different philosophical basis from the philosophical foundation of legal responsibility. The mention uses the term corporate social responsibility but has the meaning of legal obligations and responsibilities. It is necessary to study the basis for the shift in responsibility and the legal consequences of the shift. This research is a normative juridical law research using a positive law enforcement approach. Because philosophically the application of corporate social responsibility by the company describes that the company as a personification that the legal subject is not only a business entity that only seeks profit, but the company is also a social entity that interacts with its environment both in economic, social and environmental aspects. the company carries out its business activities.

I. Introduction

Corporate social responsibility (CSR) is described as a concept in which companies integrate social and environmental issues in their business activities and in their interactions with stakeholders on a voluntary basis.[1] Being socially responsible means that the company not only meets legal expectations but also fulfills and invests in human resources, namely relationships with the environment and also with stakeholders.[2]

Corporate social responsibility can be a "watchdog" on how the company treats its employees, suppliers, the environment and the community in which the company operates, as well as society at large. Social responsibility is a company's actions carried out on the basis of propriety, both socially and morally, towards the stakeholders mentioned above. The company's social responsibility is derived from ethics. The basis of the company's social responsibility is responsibility based on moral foundations. Directors must lead the company to act in this way in order to be considered good citizens.[3]

In Indonesia, in 2007 there were significant changes regarding corporate social responsibility. The company's social responsibility, which is a responsibility based on ethics and morals, is regulated in statutory regulations. Legislation has begun to require companies to carry out corporate social responsibility and regulate sanctions.[4]

The first regulation is contained in Law Number 25 of 2007 concerning Capital Investment (Law No. 25 of 2007). Article 15 letter b Law no. 25 of 2007 states that

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[1] Saleem Seikh**,** "Promoting Corporating Social Responsobilities within the European Union," *International Company and Commercial Law Review*, 2002, hlm. 143. Lihat juga J. A. C. Hetherington, "Fact and Legal Theory: Shareholders, Managers, and Corporate Social Responsibility," 21 *Stanford Law Review* 248, 1969. Lihat juga ChristopherD.Stone, "Corporate Social Responsibility: What It Might Mean, If it Were Really to Matter," 71 *Iowa Law Review* 557, 1986, hlm. 564. Lihat juga OliverKrackhardt, "Beyond the Neem Tree Conflict: Questions of Corporate Behaviour in aGlobalised World," 21 *New Zealand Universities Law Review* 347, 2005, hlm. 359.

[2] Henry N. Butler & Fred S.McChesney, "Why They Give at the Office: Shareholder Welfare and Corporate Philanthropy in the Contractual Theory of the Corporation," 84 *Cornell Law Review* 1195, 1999, hlm. 1225. Lihat juga Stephen M.Bainbridge, "In Defense of the Shareholder Wealth Maximization Norm: A Reply to ProfessorGreen," 50 *Washington&Lee Law Review* 1423, 1993, hlm. 1427. LihatjugaC Munoz Slaughter, "Corporate Social Responsibility: A New Perspective" 18 *Company Law* 313, 1997, hlm. 313.

[3] CynthiaA.Williams, "Corporate Social Responsibility in an Era of Economic Globalization" 35 *UC Davis Law Review* 705, 2002, hlm. 721.

[4] Oliver Krackhardt, "Beyond the Neem Tree Conflict: Questions of Corporate Behaviour in aGlobalised World," 21 *New Zealand Universities Law Review* 347, 2005..,hlm. 360

every investor is obliged to carry out corporate social responsibility. The second regulation is contained in Law Number 40 of 2007 concerning Limited Liability Companies (Law No. 40 of 2007). Article 74 paragraph (1) Law no. 40 of 2007 determines that companies that carry out business activities in the field and/or related to natural resources are obliged to carry out social and environmental responsibilities. Furthermore, the two laws above were followed up by Government Regulation Number 47 of 2012 concerning Social and Environmental Responsibility of Limited Liability Companies (PP No. 47 of 2012). Then several regions such as Riau Province have also issued Regional Regulation Number 6 of 2012 concerning Corporate Social Responsibility.

The consequence of the regulation of corporate social responsibility in statutory regulations has made corporate social responsibility based on and derived from ethics and morals to legal responsibility. In this way, there is a shift in corporate social responsibility, from social responsibility to legal responsibility. Likewise with obligations, from moral obligations to legal obligations.

The occurrence of this shift raises a number of issues that are worthy and important to study regarding the philosophical basis of corporate social responsibility. This is important to explore because it is important to remember that social responsibility has a different philosophical basis from the philosophical basis of legal responsibility. The term uses the term corporate social responsibility but has the meaning of legal obligations and responsibilities. It is necessary to study the basis for the shift in responsibility as well as the legal consequences of this shift.

The presence of social responsibility provisions in these two laws as a legal responsibility is something new and is happening in Indonesia. The initial debate regarding corporate social responsibility was about whether or not companies needed to carry out social responsibility to society. This debate began in the United States in 1930. The debate is now being added to by the issue of regulating corporate social responsibility in legislative settings. Nowadays, awareness in the corporate world about the importance of practicing GCG and CSR is increasing, this right can be seen from the global community's concern for products that are environmentally friendly and produced by paying attention to social norms and human rights principles (HAM). For example, a boycott of Nike shoe products by citizens in European countries and the United States occurred when Nike shoe manufacturing factories in Asia and Africa were reported to be employing minors. Apart from that, there are requirements for implementing GCG and CSR principles in credit granting policies by European banks, especially for companies operating in the plantation

sector.

Based on the concept of creating added value for stakeholders, the principle of responsibility (CSR) or "the company's role in realizing its social responsibility." In the idea of CSR, companies are no longer faced with responsibilities based on a single bottom line, namely corporate value which is reflected in their financial condition only. Corporate responsibility must be based on triple bottom lines. Here the other bottom lines, apart from financial, are social and environmental.

Apart from that, awareness of the importance of implementing CSR can also be seen from various activities in the world of industry and commerce, such as the implementation of policies in providing loans by European banks. Generally, European banks will only provide loans to plantation companies in Asia if there is a guarantee from the plantation company in Asia if there is a guarantee from the company, namely that when clearing plantation land it is not done by burning the forest. This global trend is also included in the capital markets sector, namely the application of an index that includes the category of shares of companies that have practiced CSR. For example, the New York Stock Exchange since 1999 has established the Dow Jones Sustainability Index (DJSI) for company shares that are categorized as having corporate sustainability value, with one of the criteria being CSR implementation. Likewise with the London Stock Exchange which has a Socially Responsible Investment (SRI) Index and the Financial Times Stock Exchange (FTSE) which has had FTSE4 Good since 2001. This initiative is starting to be followed by stock exchange authorities in Asia, such as the Hansen Stock Exchange and the Singapore Stock Exchange . The consequences of the existence of these indices encourage global investors such as pension funds and insurance companies to only invest in companies that are included in the index in question.

However, in implementing the principle of responsibility in the sense of CSR as one of the GCG principles, the company must pay attention to several stakeholders' interests as public shareholders, namely:

1. The principle of openness must be truly implemented, especially when a company wants to "list" or sell its shares to the public.
2. Providing material information as soon as possible to the public.
3. Listen seriously to every public opinion related to the company.

Basically, the function of corporate social responsibility is to realize sustainable economic development in order to improve the quality of life and the environment which is beneficial for the company itself, the community where the

company is located, and the wider community.[5] In addition, corporate social responsibility aims to support corporate relationships that are harmonious, balanced and in accordance with the local environment and wider community. The question of whether a company has social obligations or responsibilities is an important aspect of corporate governance. All of this of course really depends on how the company is run.

The most important objective of corporate social responsibility is to maximize profits for shareholders.[6] Entity theory which views the relationship between shareholders and the company where the company has the independence to determine the direction of company policy,[7] means that the company's only goal is to seek profits for shareholders alone.[8] This is because the task of company administrators as representatives of the company is essentially to carry out legal actions in the interests of the company based on the responsibilities given.[9] This entity theory assumes a separation between the personal interests of equity owners (owners) and the business entity (company).[10]

Corporate social responsibility as a form of legal obligation to allocate wealth is a violation of private corporate ownership rights which should be protected by the state. The company sees that if social responsibility is made an obligation, it will burden the company, so that its main goal of making a profit will not be achieved. Operational expenses are increasing, efficiency is not being achieved. To maximize profits, efficiency is the main principle. The interests of shareholders must be protected, because the company was founded by shareholders as an institution to carry out business activities aimed at making a profit.

Several multinational companies that explore natural resources with annual revenues above all the revenues of developing countries, are multinational corporations with the largest revenues in the world.[11] As a multinational

[5] Penjelasan Pasal 74 UUPT Tahun 2007. Lihat juga Kristina K.Herrmann, "Corporate Social Responsibility and Sustainable Development: TheEuropean Union Initiative as a Case Study," 11 *Indiana Journal of Global Legal Studies* 205, 2004, hlm. 215
[6] Milton Friedman, "The Social Responsibility of Business is to Increase its Profits," *New York Times Magazine*, 13 September 1970.
[7] Rachmadi Usman, *Dimensi Hukum Perseroan Terbatas*, (Bandung: Alumni, 2004), hlm. 164.
[8] Alison Jones and Brenda Sufrin, *EC Competition Law, Text, Cases, and Materials*, (New York: Oxford University Press), 2004, hlm. 123
[9] Rachmadi Usman, *Dimensi Hukum Perseroan Terbatas*, (Bandung: Alumni, 2004), hlm. 164.
[10] Milton Friedman,"The Social Responsibility of Business is to Increase its Profits," *New York Times Magazine*, 13 September 1970
[11] Antonius Alijoyo dan Subarto Zaini, *Komisaris Independen, Penggerak Praktik GCG di Perusahaan*, (Jakarta: Indeks, 2004), hlm. 3-5.

corporation, of course economically and technologically, this company has a number of advantages compared to the countries where the company operates.[12] With such a large amount of income, of course the government will try to attract the attention of investors to invest in Indonesia.[13] For this reason, several efforts have been made, including reducing labor wage standards,[14] the environment and human rights, through various written laws.[15] This reflects injustice due to socio-economic differences between the company and society.

In Riau Province, the area with the most companies operating includes: petroleum, oil palm plantations, industrial forest plantations, pulp and paper. The potential funds available in CSR Riau currently reach 500 billion so that if the programs implemented are in accordance with the targets, the achievement of improving people's welfare and environmental development can run well.
Regional Regulation no. 6 of 2012 concerning corporate social responsibility in its implementation causes problems because some of its provisions conflict with the laws and regulations above. From the explanation above, the problem can be drawn, namely: What is the philosophical basis for regulating corporate social responsibility?

2. Research Method

This research is normative juridical with legal comparisons. This method is for analyzing data that refers to legal norms contained in statutory regulations and court decisions.

The normative juridical method focuses on the philosophical aspects of establishing the basis for regulating corporate social responsibility. This method will also examine the historical sequence of the formation of regulations regarding corporate social responsibility up to its current development. Several opinions, thoughts and debates by scholars from western countries at the beginning of the emergence of the concept of corporate social responsibility will be examined further in line with the development of this concept in national law in Indonesia.

[12] Mukti Fajar ND, *Tanggung Jawab Sosial Perusahaan di Indonesia: Mandatory vs Voluntary*, (Yogyakarta: PustakaPelajar, 2009), hlm. 4.
[13] Hukumonline, "CSR, Kegiatan Sukarela yang Wajib Diatur," http://www.hukumonline.com/detail.asp?id=18664&cl=Berita, akses data 25 September 2022
[14]
[15] Michael C. Jensen & William H.Meckling, "Theory of the Firm: Managerial Behavioral, Agency Costs, and Ownership Structure," 3 *Journal of Financial and Economic* 305, 1976, hlm. 305

3. Results and Discussion

philosophical basis for regulating corporate social responsibility

Companies are not only responsible to shareholders but also to stakeholders, whether directly related to the company's activities or not. The explanation will begin by analyzing the legal relationship between directors and shareholders based on company principles and theory. The philosophical basis for the birth of laws regulating corporate social responsibility in Indonesia.

In the constitution, the principle of corporate social responsibility is related to the aims and objectives of the nation and state as stated in the preamble to the 1945 Constitution which confirms the following:

> "...the government of the Indonesian State which protects the entire Indonesian nation and all of Indonesia's blood and to promote general welfare, educate the life of the nation, and participate in implementing world order based on independence, eternal peace and social justice..."

The fourth paragraph of the preamble to the 1945 Constitution describes that "the founding fathers" wanted to formulate the goal of the Indonesian state, namely a welfare state. The concept of the welfare state has become the basis for the position and function of government (bestuursfunction) in modern countries in an effort to improve the welfare of their people. According to Utrecht, the government employment opportunities in a modern country are very wide. The government of a modern legal state is tasked with maintaining security in the broadest sense of the word, namely maintaining social security in all areas of society. In the welfare state concept, the liberal economy has been replaced by a centralized economic system (central geleide economie).

Pancasila values are the country's fundamental values. Pancasila values as the philosophical basis of the Indonesian state are essentially a source of law in the Indonesian state. In this case, the company's social responsibility is in accordance with the character of Indonesian society, summarized in the values of Pancasila. In other words, a limited liability company that implements a corporate social responsibility program is the same as implementing the values of Pancasila. Which reflects the values in the precepts as follows:

1. Precepts of Belief in One Almighty God

This one and only divine precept includes and animates the other four precepts. It

contains the value that the Indonesian state is the embodiment of human goals as creatures of the Almighty God, therefore everything related to the implementation and administration of the state, even state morals. Morals of state administration, state politics, state government, state laws and regulations. The freedom and human rights of citizens must be imbued with divine values.

2. Just and Civilized Humanitarian Precepts

The principles of humanity contain the values that the state, human rights, and upholding the dignity of humans as civilized creatures. Therefore, in state life, especially in legislative regulations, the goal is to elevate human honor and dignity. Especially the natural rights of humans as civilized creatures. Just and civilized humanity contains the value of moral awareness and human behavior which is based on the potential of human conscience and the relationship with cultural values and norms in general, both towards oneself towards fellow humans and towards the environment.

3. Principles of Indonesian Unity

In the principle of Indonesian unity, the value of the state is contained, which is an alliance of living together between the elements that form the state, ethnicity, race, group, class and religion. These differences are inherent in human nature and are also characteristic of each element. As a consequence, the country is diverse but one, binding itself in one unity which is described in the motto Bhinneka Tunggal Ika. The state provides freedom for individuals, groups, ethnicities, races and religions to realize their full potential in an integral life together. Companies that implement Indonesian unity in their business practices will prioritize policies that are full of togetherness, kinship and partnership.

4. Popular principles guided by wisdom in representative deliberations

The principles contain democratic values which absolutely must be implemented in state life. Democratic values contained in the fourth principle:

a. The existence of differences must be accompanied by rights responsibilities towards
   society and morally towards God Almighty.
b. Uphold honor and dignity
c. Guarantee and strengthen unity and unity of life together
d. Recognizing individual, group, racial, ethnic and religious differences because differences are inherent in human nature.
e. Recognize that there are equal rights inherent in every individual, group, race, ethnicity or religion.
f. Directing differences in a just and civilized humanitarian cooperation, upholding the principle of deliberation.

5. Principles of Social Justice for All Indonesian People

In fact, justice for all Indonesian people is based on and inspired by the first,

second, third and fourth principles. These precepts contain values which are the goals of the state as a goal in living together. So the value of justice that must be realized in life together is justice that is based on and inspired by the essence of human justice, namely justice in the relationship between humans and themselves, humans with other humans, humans with society, nation and state as well as the relationship between humans and their God.

So, to realize social justice for all Indonesian people, a society must be led by wisdom and representative deliberation. What is based on the existence of just and civilized humanity which is the basis of all its implementation is belief in the Almighty Godhead. This is the embodiment of humans as social creatures and at the same time the ethics of national life.

4. Conclusion

Business needs to be run by a company or corporation ethically because after all business has a positive or negative impact on stakeholders in society. Companies are not in a sterile environment, corporations or companies live and are in the midst of society. Business must be based on business ethics. With business ethics, it can be said that business actors are required to actively strive for the welfare of society. Efforts to promote prosperity based on business ethics are basically an obligation. The obligation to implement social responsibility is based on business ethics. The obligations that arise from business ethics are moral obligations. This moral obligation is based on volunteerism. Because it is based on volunteerism, corporate social responsibility generally does not run well, while on the other hand, the negative impact of the company's business activities, especially in the field of natural resources and those related to natural resources, such as environmental damage, is increasingly widespread. Stakeholders, especially the community around the company's activities, feel the negative impacts of these activities the most. Because the company's social responsibility is only based on moral obligations, these obligations are not binding and cannot be enforced. Philosophically, the application of corporate social responsibility by companies describes the company as the personification that legal subjects are not only business entities that only seek profit, but companies are also social entities that interact with their environment both in economic, social and environmental aspects where the company carry out business activities.

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